



ALAN WILSON  
ATTORNEY GENERAL

December 21, 2018

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: State v. Michael Cliff Eubanks  
Appellate Case No: 2018-001684

Dear Ms. Kitchings:

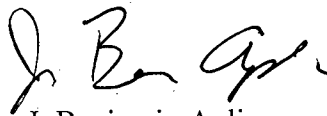
Respondent is in receipt of Appellant's "Petition for this Court to Determine what Counsel Should Do Regarding Payment for the Trial Transcript" in the above referenced case. Please accept this letter in lieu of a formal response. Respondent takes no position on the petition and submits any disposition or direction this Court gives in response to the petition should be left in the sound discretion of the Court. Respondent does however note that there appears to be no legitimate basis for withholding payment for services rendered when those services were rendered upon request and were provided in compliance with procedures approved by the Office of Court Administration. *See In re Jackson*, 365 S.C. 176, 177, 617 S.E.2d 123, 124 (2005) (noting the attorney's acknowledgment that failure to timely pay a court reporter constitutes grounds for attorney discipline). The court reporter should not suffer financially based on unfounded and largely unarticulated concerns.

Furthermore, to the extent Appellant and his family have some concerns—presumably about the accuracy of the transcript, there is a well-established process in place for addressing any such concerns. The Appellate Court Rules provide: "The transcript shall be prepared in the manner prescribed by the Court Reporters Manual published by the Office of Court Administration." Rule 606(c), SCARC. The Court Reporter Manual sets forth the procedure for challenging the accuracy of a transcript including the court reporter's obligation to review the record, report the findings in writing to the challenger, and correct any inaccuracies at no cost. S.C. Court Reporter Manual 19-20 (Approved August 16, 2011, & Amended March 1, 2017). It goes on to state: "Further review of the record may be permitted by the presiding judge upon written request with

good cause shown.” *Id.* Here, it is unclear whether Appellant, his current counsel, and/or his trial counsel have reviewed the prepared transcript and made a determination that there is a substantive basis on which to challenge its accuracy. If they have, it seems they could follow the established procedure for raising a challenge rather than withholding payment.

Finally, to the extent Appellant suggests a court reporter would intentionally alter or manipulate a transcript for which there are both back-up recordings of the proceedings and the memories of multiple individuals who participated in the proceedings, simply because the court reporter became employed as a victims’ advocate in the Solicitor’s office *after* conclusion of the proceeding in question, seems preposterous.

Sincerely,



J. Benjamin Aplin  
Senior Assistant Deputy Attorney General  
S.C. Bar No: 8729

cc: E. Charles Grose, Jr., Esquire  
The Honorable David M. Stumbo, Solicitor  
Karama T. Bailey, Deputy Director, S.C. Court Administration  
Desiree R. Allen, Program Manager, S.C. Court Administration  
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